

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DEAN ALLEN COCHRUN,)	Civ. 14-5040-KES
)	
Plaintiff,)	
)	ORDER DENYING MOTION TO
vs.)	WAIVE THE FILING FEE, DENYING
)	MOTION TO APPOINT COUNSEL,
UNITED STATES,)	AND DENYING REQUEST FOR
)	HEARING
Defendants.)	

On June 9, 2014, the court entered an order granting plaintiff, Dean Allen Cochrun, leave to proceed in forma pauperis and directing payment of an initial partial filing fee. Docket 7. Plaintiff now moves the court to appoint counsel (Docket 5), waive the entire filing fee associated with this action (Docket 8), and grant him a hearing (Docket 8). The court will address each motion in turn.

I. The Court Denies Cochrun's Motion to Appoint Counsel.

"A pro se litigant has no statutory or constitutional right to have counsel appointed in a civil case." *Stevens v. Redwing*, 146 F.3d 538, 546 (8th Cir. 1998). In determining whether to appoint counsel to a pro se litigant's civil case, the district court considers the complexity of the case, the ability of the indigent litigant to investigate the facts, the existence of conflicting testimony, and the indigent's ability to present his claim. *Id.* In this action and at this stage of litigation, the facts of Cochrun's case are not complex and he appears able to adequately present his claims. Moreover, because the court has yet to direct

service of his complaint, there is no conflicting testimony to refute. Cochrun's motion to appoint counsel (Docket 5) is therefore denied.

II. The Court Denies Cochrun's Motion to Waive the Filing Fee.

Cochrun requests that the court waive the entire filing fee associated with this action. Docket 8. Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner who "brings a civil action or files an appeal in forma pauperis . . . shall be required to pay the full amount of a filing fee." The court, therefore, will not waive this well-established requirement.

III. The Court Denies Cochrun's Request for Hearing.

Cochrun requests a hearing for the purpose of examining Trinity Marie Cochrun (Chipowsky). Docket 8. Because this order resolves all pending motions, and because the United States has yet to be served in the instant action, the court finds that Cochrun is not entitled to a hearing at this time. Accordingly, it is

ORDERED that plaintiff's motion to appoint counsel (Docket 5) is denied.

IT IS FURTHER ORDERED that plaintiff's motion to waive the entire filing fee associated with this action (Docket 8) is denied. **Plaintiff will make an initial partial payment of 73 cents by September 25, 2014**, made payable to the Clerk, U.S. District Court. If the initial partial filing fee is not received by the specified deadline, the case **will be dismissed**.

IT IS FURTHER ORDERED that plaintiff's request for hearing (Docket 8) is denied.

Dated August 26, 2014.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE